

*What Every Member of the  
Trade Community Should Know About:*

# *Mushrooms*



*An Informed Compliance Publication*

*March 2001*

---

**U.S. CUSTOMS**

## **NOTICE:**

This publication is intended to provide guidance and information to the trade community. It reflects the Customs Service's position on or interpretation of the applicable laws or regulations as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

### *Publication History*

*First Issued: October 1996*

*Revised: March 2001*

## **PRINTING NOTE:**

This publication was designed for electronic distribution via the Customs World Wide Web site (<http://www.customs.gov>). It was originally set up in Microsoft Word97®. In order to maintain pagination and margins it has been converted to Adobe Acrobat® portable document format (.pdf) with some blank pages inserted to allow two sided printing, if your printer has that capability. It can be printed using the freely available Adobe Acrobat Reader®.

## PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “***informed compliance***” and “***shared responsibility***,” which are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's rights and responsibilities under the Customs and related laws. In addition, both the trade and Customs share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. The Customs Service is then responsible for fixing the final classification and value of the merchandise. An importer of record's failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

The Office of Regulations and Rulings has been given a major role in meeting Customs informed compliance responsibilities. In order to provide information to the public, Customs has issued a series of informed compliance publications, and videos, on new or revised Customs requirements, regulations or procedures, and a variety of classification and valuation issues.

The National Commodity Specialist Division of the Office of Regulations and Rulings has prepared this publication on ***Mushrooms*** as part of a series of informed compliance publications regarding the classification and origin of imported merchandise. We sincerely hope that this material, together with seminars and increased access to Customs rulings, will help the trade community to improve, as smoothly as possible, voluntary compliance with Customs laws.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Customs Regulations, 19 CFR Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant. Reliance solely on the information in this pamphlet may not be considered reasonable care.

Comments and suggestions are welcomed and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

Stuart P. Seidel,  
Assistant Commissioner  
Office of Regulations and Rulings

(This page intentionally left blank)

## TABLE OF CONTENTS

|                                     |   |
|-------------------------------------|---|
| Introduction.....                   | 1 |
| Types of Mushrooms .....            | 2 |
| Classification .....                | 2 |
| Country of Origin Marking.....      | 4 |
| Invoicing .....                     | 4 |
| Imports .....                       | 4 |
| Antidumping.....                    | 5 |
| Mushroom Import Assessment Fee..... | 6 |
| References .....                    | 7 |
| Additional Information.....         | 8 |
| “Your Comments are Important” ..... | 9 |

(This page intentionally left blank)

## Introduction

When goods are imported into the Customs Territory of the United States (the fifty states, the District of Columbia and Puerto Rico), they are subject to certain formalities involving the U.S. Customs Service. In almost all cases, the goods are required to be “entered,” that is, declared to the Customs Service, and are subject to detention and examination by Customs officers to insure compliance with all laws and regulations enforced or administered by the United States Customs Service. As part of the entry process, goods must be “classified” (determined where in the U.S. tariff system they fall) and their value must be determined. Pursuant to the Customs Modernization Act, it is now the responsibility of the importer of record to use “reasonable care” to “enter,” “classify” and “value” the goods and provide any other information necessary to enable the Customs Service to properly assess duties, collect accurate statistics, and determine whether all other applicable legal requirements are met.

Classifying goods is important not only for duty purposes, but also for determining whether the goods are subject to quotas, restraints, anti-dumping or countervailing duties, embargoes or other restrictions. The act of classifying goods is complex and requires an importer to be familiar with the *Harmonized Tariff Schedule of the United States* (HTSUS), its 99 chapters, rules of interpretation, and notes. A detailed discussion of the HTSUS may be found in a companion publication entitled, *What Every Member of the Trade Community Should Know About Tariff Classification*. Customs valuation requirements are separately discussed in a companion publication entitled, *What Every Member of the Trade Community Should Know About Customs Value*. Both of these publications are available from the Customs World Wide Web pages on the Internet (see the Additional Information section for information on accessing these sources and obtaining additional Customs Service publications).

Classification of merchandise under the Harmonized Tariff Schedule of the United States is in accordance with the General Rules of Interpretation (GRI's). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes.

The *Harmonized Commodity Description and Coding System Explanatory Notes* (referred to as E.N. or *Explanatory Notes*)<sup>1</sup> constitute the official interpretation of the Harmonized System at the international level. While not legally binding nor dispositive, the E.N.s provide a commentary on the scope of each heading of the Harmonized System and are generally indicative of the proper interpretation of these headings. See T.D. 89-80, 54 FR 35127, 35128 (August 23, 1989).

This publication discusses the tariff classification and other issues related to the importation of mushrooms.

---

<sup>1</sup> The *Harmonized Commodity Description and Coding System Explanatory Notes - Second Edition* is © 1996 Customs Cooperation Council (working name: World Customs Organization (WCO)), Rue du Marché 30, B-1210 Brussels, Belgium.

## Types of Mushrooms

There are more than 38,000 kinds of mushrooms in the world, and they vary considerably in color, size and shape. The main parts of a mushroom include the stem and cap (See diagram). Stem sizes vary from short and thick to long and thin. The cap's texture can be smooth, pitted, honeycombed or ruffled. Flavors range from bland to rich, to nutty and earthy. The cultivated *Agaricus* (common button) mushrooms, having a mild, earthy flavor, with caps that range in size from 1/2 to 3 inches in diameter and either a white or tan color, is commonly found in most grocery and supermarket stores. Mushrooms are available fresh, in bulk, and in various retail sizes. Canned mushrooms are available in several forms including whole, chopped, sliced and caps only. Some mushrooms, usually the imported varieties, are available dried whole or in slices, bits or pieces, and are sometimes packed in a marinade.

Specialty or exotic varieties of mushrooms are commercially grown in the United States as well as imported. Specialty mushrooms include Shiitake (*Lentinus edodes*), Maitake (*Grifola frondosa*), Nameko (*Pholiota nameko*), Enoki (*Flammulina velutipes*), Pom Pom (*Hericium erinaceus*), Oyster (*Pleurotus spp.*), Portabella, Crimini (*Agaricus Bisporus*), and others. Production has steadily increased over the past several years. Shiitake, Portabella, and Oyster are the most popular, followed by the Enoki, Maitake, Nameko and Pom Pom.

## Classification

The Harmonized Tariff Schedule of the United States (HTSUS) provides for mushrooms as follows:

| Tariff Description  | HTSUS subheading |
|---|------------------|
| Fresh or chilled  |                  |
| of the genus <u>Agaricus</u>  | 0709.51.0010*    |
| other [than <u>Agaricus</u> ]   | 0709.51.0090*    |
| Frozen, uncooked or cooked by steaming or boiling in water  | 0710.80.2000     |
| Provisionally preserved by e.g., sulfur dioxide gas, in brine, in sulfur water or in other preservative solutions, but unsuitable in that state for immediate consumption | 0711.90.4000**   |
| Dried, whole, cut, sliced, broken or in powder, but not further prepared  |                  |
| air or sundried   | 0712.30.1000     |
| dried by other means  | 0712.30.2000     |



|  |                |
|--|----------------|
| Prepared or preserved by vinegar or acetic acid  | 2001.90.3900   |
| Straw mushrooms, prepared or preserved otherwise than by vinegar or acetic acid          | 2003.10.0009   |
| Other than straw mushrooms, prepared or preserved otherwise than vinegar or acetic acid: |                |
| In containers each holding not more than 255 grams:                                      |                |
| whole (including buttons)  | 2003.10.0027** |
| sliced   | 2003.10.0031** |
| other  | 2003.10.0037** |
| In containers each holding more than 255 grams   |                |
| whole (including buttons)  | 2003.10.0043** |
| sliced   | 2003.10.0047** |
| other  | 2003.10.0053** |

\* Fresh mushrooms are subject to a mushroom import assessment fee. (See Mushroom Import Assessment Fee, below)

\*\* Subject to antidumping duties from certain countries.

A recent ruling discusses the classification of canned marinated mushrooms. (See HQ 964374, dated October 17, 2000, wherein canned marinated mushrooms were classified in subheading 2003.10.00, the provision for "Mushrooms and truffles, prepared or preserved otherwise than by vinegar or acetic acid: Mushrooms"). The HTSUS, and the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) do not define what constitutes "prepared or preserved by vinegar or acetic acid" (which is found in vinegar). However, under the Tariff Schedules of the United States (TSUS), the predecessor to the HTSUS, the Customs position as to the minimum amount of acetic acid necessary to determine whether a vegetable is prepared or preserved by vinegar or acetic acid was outlined in Headquarters Ruling Letter (HRL) 069121, dated May 20, 1983 (I/A 247/80). That decision held that a product required a "minimum of 0.5 per cent acetic acid (subject to allowable tolerances) in the equilibrated product" to be considered as prepared or preserved by vinegar or acetic acid and this position has continued under the HTSUS. See also HRL Letters, 085838 dated December 21, 1989, 952738 dated January 27, 1993, 953518 dated June 24, 1993, 956850 dated March 22, 1996, 959313 dated February 20, 1997, 959314 dated February 20, 1997, 959361 dated April 17, 1997 and 957041 dated November 11, 1998, for similar rulings relating to the classification of vegetables put up or preserved in vinegar or acetic acid.

If mushrooms are "prepared or preserved otherwise than by vinegar or acetic acid", then the mushrooms at issue are classified in heading 2003, HTSUS. Often, canned mushrooms are prepared and preserved by washing, blanching, slicing, canning and/or by the addition of water, vinegar, acetic acid, sugar, yeast extracts, MSG, and/or natural flavoring. Hence, canned marinated mushrooms are *prima facie* classifiable in heading 2003, HTSUS.

## **Country of Origin Marking**

Pursuant to section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304) and Part 134 of the Customs Regulations (19 CFR Part 134), all imported articles must be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the articles (or container) will permit in such manner as to indicate to an ultimate consumer in the United States, the English name of the country of origin of the article.

Section 1970(b) of the Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100-418, provides:

Imported preserved mushrooms shall not be considered to be in compliance with section 304 of the Tariff Act of 1930 (19 U.S.C. Part 1304) or any other law relating to the marking of imported articles unless the containers thereof indicate in English the country in which the mushrooms were grown.

Subsequent packing or preserving (i.e. canning) is not sufficient to change the country of origin. The term "product of..." may only be used to refer to the country in which the mushrooms were grown. (See HRL 734281, dated February 13, 1992) Acceptable country of origin marking includes "grown in..." and "product of..." However, the "product of..." phrase cannot be used when referring to the country in which the mushrooms have been merely packed or canned.

## **Invoicing**

It is important to have a detailed description of the imported product on the invoice to insure proper classification. Mushrooms should be described as "fresh," "chilled," "frozen," etc., as well as the genus, species, form (whole, buttons, sliced, etc.), type of packing, country of origin (see "country of Origin Marking" above), etc.

## **Imports**

Mushrooms are imported from as many as sixty-four different countries. The majority of the imports are from Canada, China, India, Indonesia, Japan, and Taiwan. For the year 1999, the value of imported mushrooms totaled more than \$94,861,134. For the first ten months of 2000, the value of imported mushrooms totaled more than \$57,674,183. Mushrooms (other than straw mushrooms) in containers each holding not more than 255 grams (not whole or sliced) comprised the majority of the imports.

These mushrooms were classified under subheading 2003.10.0037, HTSUS. The second largest category of imported mushrooms were mushrooms (other than straw mushrooms) in containers each holding more than 255g (not whole or sliced), classified under subheading 2003.10.0053, HTSUS.

## Antidumping

On February 19, 1998, the Department of Commerce published antidumping orders in the Federal Register concerning preserved mushrooms imported from Chile, China, India, and Indonesia.

| Antidumping case numbers | Country   |
|--------------------------|-----------|
| A-337-804                | Chile     |
| A-533-813                | India     |
| A-560-802                | Indonesia |
| A-570-851                | China     |

The mushrooms covered by these orders are preserved mushrooms of the species *Agaricus bisporus* and *Agaricus bitorquis*, whether imported whole, sliced, diced, or as stems and pieces. "Preserved mushrooms," for purposes of the antidumping orders, are mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes cutting or slicing, then packed and heated in containers such as cans or glass jars, in a liquid medium such as water, brine, butter or butter sauce. Included within the scope of the orders are "brined" mushrooms, i.e., mushrooms that are pre-salted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of the orders are:

- all other species of mushroom, including straw mushrooms,
- fresh and chilled mushrooms, including "refrigerated" or "quick blanched" mushrooms,
- dried mushrooms,
- frozen mushrooms, and
- "marinated," "acidified," or "pickled" mushrooms.

The antidumping orders define "marinated," "acidified," or "pickled" mushrooms as prepared or preserved by means of vinegar or acetic acid, but which may contain oil or other additives. This exclusion applies only to mushrooms with an acetic acid content of 0.5 percent or more. (Department of Commerce scope ruling dated June 19, 2000. See also HRL 963835 dated October 17, 2000, (IA 00/04) and HRL 964374, dated October 17, 2000).

Mushrooms subject to these orders are classifiable under subheadings 0711.90.4000, 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043,

2003.10.0047, and 2003.10.0053 of the Harmonized Tariff Schedule of the United States (HTSUS).

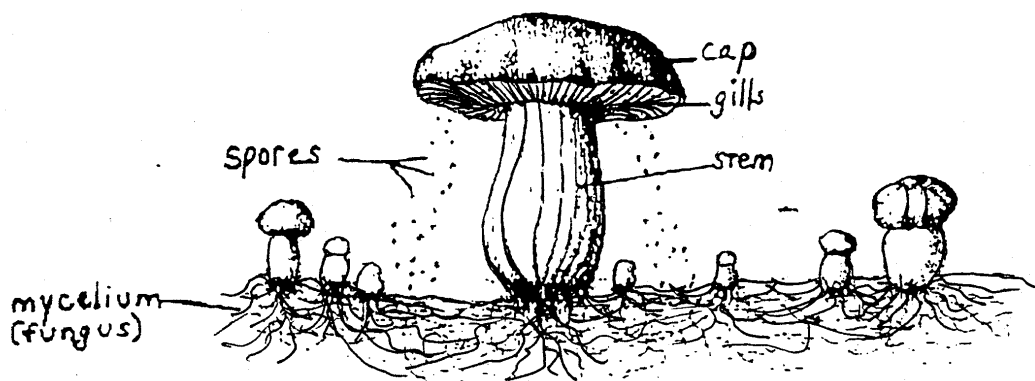
In calendar year 1999, a total of \$6,148,284 in dumping duties associated with all cases was assessed on 27,637,877 kilograms of mushrooms, having a total value of \$53,061,666. For the period of January through October of 2000, a total of \$7,502,973 in dumping duties associated with all cases was assessed on 20,073,749 kilograms of mushrooms, having a total value of \$39,066,471.

The importing public and other interested parties should contact the International Trade Administration, at the U.S. Department of Commerce for information on antidumping rates of duty and case numbers.

### **Mushroom Import Assessment Fee**

In March 1993, the Agricultural Marketing Service (AMS) of the United States Department of Agriculture (USDA) entered into an agreement with the U.S. Customs Service whereby the Customs Service is required to collect an import assessment fee, as part of the entry process, for all varieties of fresh mushrooms entered or withdrawn from warehouse, under subheadings 0709.51.0010 or 0709.51.0090, HTSUS.

The Mushroom Council, established by the Mushroom Promotion, Research, and Consumer Information Order (7 C.F.R. 1209), has determined that the mushroom fee will be \$.005512 per kilograms for goods classified under subheading 0709.51.00, HTSUS, and entered, or withdrawn from warehouse, for consumption effective October 1, 2000. The Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6101-6112), provides the authority for the Mushroom Council to periodically increase the rate of assessment.



## References

Charles, V.K., *Some Common Mushrooms And How To Know Them*, United States Department of Agriculture, No. 143, Washington D.C., March 1931.

Coyle, L.P. Jr., ed. *World Encyclopedia of Food*, Facts on File, New York, N.Y., 1982,

Dickinson, C. and John Lucas, ed. *VNR Color Dictionary of Mushrooms*, Van Nostrand Reingold Company, Orbis Publishing Limited, London, 1982.

Dickinson, C. and John Lucas, *The Encyclopedia of Mushrooms*, G.P. Putnam's Sons New York, Orbis Publishing Limited, London, 1979.

Fanelli, A. and Tosco, U., *Color Treasury of Mushrooms & Toadstools*, Crescent books, Orbis Publishing Limited, London, 1972.

Gonzales, A., "Many awaiting the next Portabella," *The Packer*, January 1, 1996, p. 6C.

Gonzales, A., "Groups relying on others to spread word," *The Packer*, January 1, 1996, p. 10C.

United States International Trade Commission, *Harmonized Tariff Schedule of the United States (2001)*, Washington D.C., 2000.

Luth, B.S., Woodruff, J.G., *Commercial Vegetable Processing*, The AVI Publishing Company, Westport, Connecticut, 1975.

Molin, J., "Specialty Mushrooms: Yesterday, Today, & Tomorrow," *Mushroom News*, February 1995.

Mushroom Council, *"The Complete Story,"* Mushroom Council, Roseville, California, 1995.

*U.S. Imports of Merchandise*, International Harmonized System Commodity Classification U.S. Department of Commerce, Bureau of the Census, Data Services Division, Washington D.C.

## Additional Information

The U. S. Customs Service's home page on the Internet's World Wide Web, provides the trade community with current, relevant information regarding Customs operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, Customs publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site contains the most current electronic versions of, or links to:

- Customs Regulations and statutes
- Federal Register and public information notices
- The Customs Bulletin and Decisions
- Binding Rulings
- Publications including-
  - *Importing Into the U.S.*
  - other Informed Compliance Publications in the "*What Every Member of the Trade Community Should Know About:...*" series
  - *Customs Valuation Encyclopedia*
- Video Tape availability and ordering information
- Information for small businesses

The web site links to the home pages of many other agencies whose importing or exporting regulations Customs helps to enforce. The web site also links to the Customs Electronic Bulletin Board (CEBB), an older electronic system on which Customs notices and drafts were posted. Since December 1999, the CEBB has been only accessible through the web site. Finally, Customs web site contains a wealth of information of interest to a broader public than the trade community -- to international travelers, for example.

The Customs Service's web address is <http://www.customs.gov>.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under Customs Regulations, 19 CFR Part 177, or obtain advice from an expert (such as a licensed customs broker, attorney or consultant) who specializes in Customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from Customs ports of entry. Please consult your telephone directory for a Customs office near you. The listing will usually be found under U.S. Government, Treasury Department.

## **“Your Comments are Important”**

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs, call 1-888-REG-FAIR (1-888-734-3247).



**U.S. Customs Service  
Washington, D.C. 20229**

**Please visit the U.S. Customs Service Web Site at <http://www.customs.gov>**

**TO REPORT DRUG SMUGGLING**

**1(800) BE ALERT**